MONTANA LEGISLATIVE HISTORY

Chapter 319 1974

Bill H _____ S 582 Original bill & history ____C

H. Committee on State Administration		S. Committee on State Administration	
Hearing Date(s) _____	____C	Hearing Date(s) Jan 28	✓ C
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_____	____C	_____	____C
Date Out _____	____C	Jan 28	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

No House minutes exist.

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

January 28, 1974

The ninth meeting of the State Administration Committee was called to order by Chairman David F. James on Monday, January 28, 1974 in Room 410 of the State Capitol Building at 8:00 a.m.

ROLL CALL: All members were present.

SENATE BILL NO. 575: "An act to change the name of the Board of Masseurs to the Board of Massage Therapists."

Senator Romney, sponsor of the bill, explained that at the present time, 86% of the practicing masseurs are female. The reason they want the name changed is that the word "Masseur" is the masculine gender.

Senator Story made a motion that the committee recommend Senate Bill 575 DO PASS. The motion was seconded by Senator Nees and carried unanimously.

SENATE BILL NO. 576: "An act to change the name of the Board of Osteopaths to the Board of Osteopathic Physicians."

Senator Romney was also the sponsor of this bill, and gave a brief explanation to the Committee. He then introduced Mr. Ed Carney, Director of the Department of Professional and Occupational Licensing. Mr. Carney stated that these two Boards mentioned in Senate Bills 575 and 576 come under his Department. He explained that the osteopaths were upset since reorganization named them the Board of Osteopaths as they felt this was a downgrading of some kind. Also, the title "Osteopath" is not in common use at this time, and they feel the Board of Osteopathic Physicians would be more descriptive of their work. Mr. Carney also noted that the telephone directory lists them as Osteopathic Physicians, and further noted that the dictionery defines "physician" as "anyone on the healing arts field."

Senator Rosell made a motion that the Committee recommend Senate Bill 576 DO PASS. The motion was seconded by Senator Devine and carried unanimously.

SENATE BILL NO. 587: "An act limiting the fee to be paid by municipally operated utilities for the support of the Consumer Counsel."

Senator Paul Boylan, sponsor of this bill, gave a brief explanation of it to the Committee.

Mr. Dan Mizner, League of Cities and Towns, testified as a proponent of this bill. Mr. Mizner explained that the bill creating the Consumer Counsel was passed a year ago, but no limit was put on the amount of money they could tax municipally operated utilities. Therefore they were incensed that a state agency could send them a bill for any amount they wanted. Since the utilities

have to come before the Legislature to increase their prices, they feel the same treatment should be given to the Consumer Counsel. Therefore, since the Counsel has determined that their cost amounts to a tax of six-tenths of one percent of gross operating revenue, the utilities feel that the lid should be put on at this amount.

Senator Darrow made a motion that the Committee recommend Senate Bill 587 DO PASS. The motion was seconded by Senator Story and carried unanimously.

SENATE BILL NO. 240: "An act establishing a sheriffs' retirement system."

Senator Lynch, sponsor of this bill, explained that this is one that was held over from last session, and that it has been studied extensively during the interim. A number of amendments were proposed, and each member of the Committee received a copy of the bill as amended during the interim. Senator Lynch stated he thinks it is in pretty good shape at this time.

Mr. Roy Bolger, Montana Sheriffs and Peace Officers Association, testified that he feels the job of sheriff is sufficiently different that it deserves to have a retirement system considered on its own merits. He stated that this system will be soundly funded and that the Governor has recommend this bill be passed and has said he will sign it.

Sheriff Kenneth Cunningham passed out a copy of his written testimony to each member of the Committee.

Sheriff John Krshl stated that all the sheriffs in Montana are in favor of this bill. He feels that there are many qualified and dedicated law enforcement officers in Montana and that it is necessary to have incentives such as this bill contains to keep them on the job. Sheriff Krshl further stated that this bill would cost the taxpayers in an area the size of Great Falls, approximately $7,000 per year.

Sheriff John Moe stated that this act would create a separate account within the existing Montana PERS. This bill is similar to the Montana Highway Patrol retirement system, but provides for 25 years of service before retirement whereas most cities provide for only 20 years of service.

Chairman James stated that Larry Nachsteim, Director of PERS, had also worked on this bill during the interim. Mr. Nachsteim had offered a number of amendments which were acceptable to the interim committee. The bill was re-written by an attorney in the Legislative Council and checked thoroughly by a number of people.

Sheriff Bolger, in further testimony, stated that the sheriffs were looking forward to a combination retirement plan for all of the law enforcement officials in Montana. This new plan should take over after 1975 so that this sheriffs bill would probably be phased out in one year.

restored to good health and that he has not practiced acupuncture in this state during the term of suspension. If the evidence fails to establish to the satisfaction of the board that the licensee is then of good moral character and conduct or if not restored to good health or if the evidence shows he has practiced acupuncture in this state during the term of suspension, the board shall revoke the license at a hearing, the notice and procedure of which shall be as hereinabove provided, which revocation shall then be final and absolute.

Section 12. There is a new section to be numbered 66-3412, R.C.M. 1947, which reads as follows:

66-3412. **Judicial review of board decisions.** Any person aggrieved by the final decision of the board may obtain judicial review of that decision. The judicial review procedure shall be the same as that for contested cases under the Montana Administrative Procedure Act (82-4201 to 82-4225).

Section 13. There is a new section to be numbered 66-3413, R.C.M. 1947, which reads as follows:

66-3413. **Deposit of fees.** All moneys received under this act shall be deposited with the state treasurer and credited to an account to be designated by him. No money shall be paid out of the fund except upon vouchers drawn against the fund, signed and certified to by the secretary of the board. All funds so credited shall be available to the board for the payment of expenses incurred by it in the performance of its duties under this act.

Section 14. There is a new section to be numbered 66-3414, R.C.M. 1947, which reads as follows:

66-3414. **Enjoining unlawful practice.** The practice of acupuncture in any way other than as defined in this act may be enjoined by the district court on petition by the board. In any such proceeding, it shall not be necessary to show that any person is individually injured by the actions complained of. If the respondent is found to have so practiced, the court shall enjoin him from so practicing unless and until he has been duly licensed. Procedure in such cases shall be the same as in any other injunction suit. The remedy by injunction is in addition to criminal prosecution and punishment.

Section 15. There is a new section to be numbered 66-3415, R.C.M. 1947, which reads as follows:

66-3415. **Acupuncture examinations for licensed doctors of medicine, osteopathy, chiropractic, dentistry and podiatry.** Nothing in this act shall be construed to require doctors of medicine, osteopathy, chiropractic, dentistry, and podiatry who are licensed in Montana to take further examinations in anatomy, physiology, chemistry, dermatology, diagnosis, bacteriology, materia medica, or other subjects which are or may be required for licensure in their respective professions; but no doctor of medicine, osteopathy, chiropractic, dentistry or podiatry shall practice acupuncture in this state unless and until he has completed a course and passed an examination in acupuncture as required by this act.

Section 16. There is a new section to be numbered 66-3416, R.C.M. 1947, which reads as follows:

66-3416. **Violation of act — penalty.** Any person who violates any of the provisions of this act or the rules and regulations of the state board of acupuncture shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding five hundred dollars ($500), or both.

Section 17. There is a new section to be numbered 66-3417, R.C.M. 1947, which reads as follows:

66-3417. **Severability clause.** If any provision of this act, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect any other provision or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Approved March 28, 1974

CHAPTER NO. 318

AN ACT TO AMEND SECTION 32-2610, R.C.M. 1947, TO ALLOW THE DEPARTMENT OF HIGHWAYS TO INCREASE THE EXPENDITURES FOR FEDERAL AID INTERSTATE HIGHWAY SYSTEMS MADE IN ANY FINANCIAL DISTRICT TO THE EXTENT OF THREE HUNDRED PERCENT (300%) MORE THAN THE AMOUNT OF MONEY ALLOCATED TO SUCH DISTRICT.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 32-2610, R.C.M. 1947, is amended to read as follows:

"32-2610. **Increases in expenditures.** (1) The commission may increase the expenditures made in any financial district to the extent of:

(a) Twenty-five *percent* (25%) more than the amount of money allocated to such district in the latest year for the federal-aid primary system or the federal-aid secondary system.

(b) *Three hundred percent (300%)* more than the amount of money allocated to such district in the latest year for the federal-aid interstate highway system.

(2) The allocation of available state construction funds to any district for the next succeeding fiscal year shall be decreased by an amount equal to any increased expenditures."

Approved March 28, 1974.

CHAPTER NO. 319

AN ACT LIMITING THE FEE TO BE PAID BY MUNICIPALLY OPER-

ATED UTILITIES FOR THE SUPPORT OF THE CONSUMER COUNSEL TO SIX-HUNDREDTHS OF ONE PERCENT (.06 OF 1%) OF GROSS OPERATING REVENUE; AND AMENDING SECTION 70-709, R.C.M. 1947.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 70-709, R.C.M. 1947, is amended to read as follows:

"70-709. **Disposition of fees—quarterly report and fee from regulated companies—penalty for violation—evidence of violation.** (1) There is an account in the earmarked revenue fund to which all fees collected hereunder shall be deposited and from which all appropriations to the office of the consumer counsel shall be paid.

(2) In addition to all other licenses, fees, and taxes imposed by law, all regulated companies shall, within 90 days after the close of each calendar quarter, file with the department of public service regulation and the department of revenue a statement in such form as the commission may determine, showing the gross operating revenue from all activities regulated by the commission within the state for that calendar quarter of operation or portion thereof, and shall at that time pay to the department of revenue a fee based on a fraction of the gross operating revenue reported, as determined by the department of revenue under subsection (3) of this section.

(3) Within thirty (30) days following enactment of the legislative appropriation for the office of the consumer counsel, the department of revenue shall:

(a) determine the total gross operating revenue generated by all regulated activities within this state for all regulated companies, for the previous fiscal year,

(b) compute the percentage of the amount determined in subsection (3) (a) which will produce an amount equal to the appropriation to the consumer counsel for each year of the appropriation, *except that no regulated company owned and operated by any municipal corporation within this state shall be required to pay a sum in excess of six-hundredths of one percent (.06 of 1%) of its gross operating revenue,* and

(c) give notice by mail to each regulated company of the percentage determined in subsection (3) (a) *and (b)* to be applied to the gross operating revenue reported under subsection (2) above, to determine the amount of the fee to be paid in each year of the appropriation.

(4) In the event the fee charged in any one (1) year of the biennium is in excess of the amount actually expended in that year, the excess shall be deducted from the amount required for the first year of the next biennial appropriation before the determination for that year required by subsection (3) (a) of this act is made.

(5) Any regulated company, or any officer or employee of any regulated company, who, with intent to evade any fee or any requirement of this act or any lawful requirement of the commission thereunder, fails to pay the fee, or to make, render, sign or verify any statement, or to supply any information, within the time required by or under the provisions of this act, or who, with like intent, makes, renders, signs, or verifies any false or fraudulent statement, or supplies any false or fraudulent information, shall be liable to a penalty of not more than one thousand dollars ($1,000), to be recovered by the attorney general, in the name of the state, by action in any court of competent jurisdiction, and shall also be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed one thousand dollars ($1,000) or be imprisoned in the county jail not to exceed one (1) year, or both, at the discretion of the court.

(6) The certificate of the department of revenue to the effect that a fee has not been paid, that a report has not been filed, or that information has not been supplied, as required by or under the provisions of this act, shall be prima facie evidence that such fee has not been paid, that such statement has not been filed, or that such information has not been supplied."

Approved March 28, 1974.

CHAPTER NO. 320

AN ACT TO CREATE A LEGISLATIVE ADVISORY AND LIAISON COMMITTEE; DEFINING ITS DUTIES WITH RESPECT TO THE MONTANA STATE BUREAU OF MINES AND GEOLOGY; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. The legislature of the state of Montana recognizes that there is developing a mineral shortage of significant dimensions which will greatly intensify if present trends continue. It further recognizes that the Montana state bureau of mines and geology plays a unique and essential public service by collecting data, performing research, and providing public information related to Montana's mineral, fuel, and associated water resources, that can be utilized to minimize the effects of the impending mineral crisis. The legislature further recognizes the complex interrelationships that exist among state and federal agencies charged with the management of our natural resources, and that for the state bureau of mines and geology to successfully perform its vital functions, continuing review of its enabling legislation and the close cooperation, advice, supervision, and support of the legislature is required.

Section 2. Legislative advisory and liaison committee created — appointment — members — term. There is created a legislative advisory and liaison committee consisting of four (4) members. Two (2) members, of different political parties, shall be appointed by the speaker of the house from the membership of the house committee on natural